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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,248	12/06/2001	Jean-Marie Blanchard	21065/0160	4517

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EXAMINER	
GARCIA, ERNESTO	

ART UNIT	PAPER NUMBER
3679	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	10/003,248	BLANCHARD, JEAN-MARIE
	Examiner	Art Unit
	Ernesto Garcia	3679

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 3 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *18-21*.

   Claim(s) objected to: *3,4,6,14,15,17 and 22*.

   Claim(s) rejected: *1,2,5,12,13 and 16*.

   Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on *18 May 2004* is a)☒ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

John R. Cottingham
Patent Examiner

Continuation of 5. does NOT place the application in condition for allowance because: the examiner did not reject the original claims but rather the amended claims after the claims were already allowed in the first office action. The applicant contents that the succeeding amendments have been relatively minor. The examiner respectfully disagrees as the allowable feature is not present as filed. For instance, the allowed claims contained the limitation "a flange bearing against --a-- the free surface of the first part", the amended claims now recites "a flange bearing against a spring thrust element", this kind of change is not minor but drastic. Claim 1, as originally filled and found allowable, is not the same claim 1 as currently pending. Based on the amendment to claim 1, the finality of the rejection is based on the necessitated amendment. Applicant is reminded that an examiner cannot make a final rejection when the same claim presented after a first office action is still present as filed. This is not the case in this application as the presented claim after a first office action is not the same as originally filed.

In regards to the 103(a) issue in claims 1, 2, 12 and 13, the applicant has argued that there is no comparable locking action in the primary reference to Boyce. In response, it has been held that the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art. In re Bozek, 163 USPQ 545 (CCPA 1969). Applicant is also reminded that the spring thrust element of Boyce applies an axial thrust to the balls by the body through a load applied to the flange. It is inherent that each ball contacts the lateral surface, thus the piston is maintained in the locked position. Applicant further argued that in Boyce, the spring thrust element does not bias the piston. This argument is invalid as nowhere in the claims does the limitation "the spring thrust element biases the piston". Applicant further argued that Boyce does not maintain the piston in the locked position by the balls but by the spring. This is not found persuasive since applicant has not analyzed the rejection in combination with the secondary reference. It is when the secondary reference combined with the primary reference that the combined teachings anticipate the claim

Applicant has argued that the means 42 of Boyce is not designed for displacing the piston to an unlocked position but rather 42 is essentially stop means for the spring 40. Applicant is partially correct. The means 42 also acts as a stop means for the spring. The means 42 also has the function of displacing the piston to an unlocked position. This is an inherent function as someone of ordinary skill in the art will push down on the means 42 which displaces the piston to an unlocked position (see Figure 5). There's nothing that prevents the means from displacing the piston as shown in Figure 5. The means is not threaded to the housing and thus pushing down on the means 42 displaces the piston.

Applicant further argued that Brewster teaches unlocking by pushing the rod in a manner contrary to applicant's invention. Applicant is reminded that Brewster was not used to teach unlocking but rather to teach an outer end of the rod extending outwardly of the lock body; thus, the argument is out of scope as the primary reference already teaches unlocking by pushing the rod in the manner to applicant's invention.